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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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William F. Dolphin

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EXAMINER

TOWA, RENE T

ART UNIT

PAPER NUMBER

3736

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/557,743	<b>Applicant(s)</b> DOLPHIN ET AL.	
	<b>Examiner</b> Rene Towa	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/21/05</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 8-9, 22-24, 33-35, and 54-56 are objected to because of the following informalities:

In regards to claims 8-9, 22-24, 33-34, and 54-55, at line 1, the limitations "the signal transducing device" render the claim indefinite; from the plural language used in claims 1, 12, 26 and 46, respectively, it is unclear whether or not the probe system comprises one or more signal transducing device.

In regards to claim 35, at line 2, remove "the" between "of" and "an."

In regards to claim 56, at line 2, the limitations "the subject's ear" should apparently read --a subject's ear-- to avoid a potential lack of antecedent basis problem.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

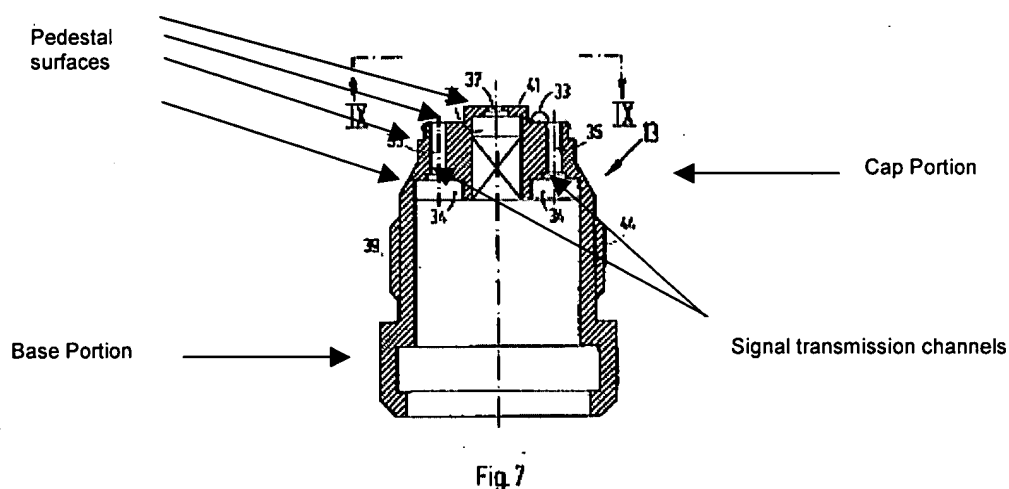
3. Claims 1-5, 7-9, 12-14, 16-17, 20-23, 26, 29-34, 38, 42, 45-49, 53-55 and 58-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Saxbol et al. (WO 94/22372).

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In regards to claim 1, Saxbol et al. discloses an ear probe 13 comprising:

a base portion housing at least one signal transducing device; and

a cap portion extending from the base portion, the cap portion defining a channel 37 for signal transmission and a plurality of pedestal surfaces (see figs. 4-9; page 9/lines 13-17; page 11/lines 9-21 & 33-35).



In regards to claim 2, Saxbol et al. discloses an ear probe 13 wherein the cap portion includes a protrusion 33 extending away from the cap portion at an angle to a longitudinal axis of the channel 37 of the cap portion (see figs. 8-9).

*It is noted that the pins 33 of Saxbol et al. could be construed as being located at an angle of 360°.*

In regards to claim 3, Saxbol et al. discloses an ear probe 13 wherein the angle is greater than 45 degrees (see figs. 8-9).

*It is noted that the pins 33 of Saxbol et al. could be construed as being located at an angle of 360°.*

In regards to claim 4, Saxbol et al. discloses an ear probe 13 wherein the protrusion 33 is angled (see figs. 8-9).

*It is noted that the pins 33 of Saxbol et al. could be construed as being located at an angle of 360°.*

In regards to claim 5, Saxbol et al. discloses an ear probe 13 wherein the cap portion includes an alignment feature 33 that inhibits radial rotation of an ear probe tip 11 attached to the ear probe 13 about a longitudinal axis of the channel 37 (see figs. 8-9; page 6/lines 29-36; page 7/lines 1-2 & 16-29; page 10/lines 29-31; page 11/lines 23-26).

In regards to claim 7, Saxbol et al. discloses an ear probe 13 wherein the alignment feature is a projection 33 extending from a proximal end of the cap portion (see figs. 8-9).

In regards to claim 8, Saxbol et al. discloses an ear probe 13 wherein the signal transducing device is a microphone (see page 1/lines 21-26; page 9/lines 13-17; page 11/lines 13-21).

In regards to claim 9, Saxbol et al. discloses an ear probe 13 wherein the signal transducing device is a speaker (see page 1/lines 21-26; page 9/lines 13-17; page 11/lines 13-21).

In regards to claim 12, Saxbol et al. discloses an ear probe 13 comprising:  
a base portion housing at least one signal transducing device; and  
a cap portion extending from the base portion, the cap portion comprising at least one pedestal portion including a protrusion 33 extending away from the pedestal portion

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at an angle to a longitudinal axis of the cap portion (see figs. 4-9; page 9/lines 13-17; page 11/lines 9-21 & 33-35).

*It is noted that the pins 33 of Saxbol et al. could be construed as being located at an angle of 360°.*

In regards to claim 13, Saxbol et al. discloses an ear probe 13 wherein the at least one pedestal portion includes a plurality of protrusions 33 (see figs. 8-9).

In regards to claim 14, Saxbol et al. discloses an ear probe 13 wherein the protrusion 33 is angled (see figs. 8-9).

*It is noted that the pins 33 of Saxbol et al. could be construed as being located at an angle of 360°.*

In regards to claim 16, Saxbol et al. discloses an ear probe 13 wherein the cap portion defines at least two channels 35 for signal transmission (see figs. 8-9; page 5/lines 31-36; page 11/lines 13-21 & 33-35).

In regards to claim 17, Saxbol et al. discloses an ear probe 13 wherein the cap portion includes an alignment feature 33 that inhibits radial rotation of an ear probe tip 11 attached to the ear probe 13 about the longitudinal axis of the cap portion (see figs. 8-9; page 6/lines 29-36; page 7/lines 1-2 & 16-29; page 10/lines 29-31; page 11/lines 23-26).

In regards to claim 20, Saxbol et al. discloses an ear probe 13 wherein the alignment feature is a projection 33 extending from a proximal end of the cap portion (see figs. 8-9).

In regards to claim 21, Saxbol et al. discloses an ear probe 13 wherein the cap portion includes a plurality of pedestal portions (see drawing supra).

In regards to claim 22, Saxbol et al. discloses an ear probe 13 wherein the signal transducing device is a microphone (see page 1/lines 21-26; page 9/lines 13-17; page 11/lines 13-21).

In regards to claim 23, Saxbol et al. discloses an ear probe 13 wherein the signal transducing device is a speaker (see page 1/lines 21-26; page 9/lines 13-17; page 11/lines 13-21).

In regards to claim 26, Saxbol et al. discloses an ear probe 13 comprising:  
a base portion housing at least one signal transducing device; and  
a cap portion defining at least two channels 35 for signal transmission, the cap portion including an alignment feature 33 that inhibits radial rotation of an ear probe tip 11 secured to the cap portion about an axis extending between a distal end of the cap portion and a proximal end of the cap portion (see figs. 4-9; page 6/lines 29-36; page 7/lines 1-2 & 16-29; page 9/lines 13-17; page 10/lines 29-31; page 11/lines 9-21, 23-26 & 33-35).

In regards to claim 29, Saxbol et al. discloses an ear probe 13 wherein the alignment feature is a projection 33 extending from the proximal end of the cap portion (see figs. 8-9).

In regards to claim 30, Saxbol et al. discloses an ear probe 13 wherein the cap portion includes a pedestal portion (see figs. 8-9).

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In regards to claim 31, Saxbol et al. discloses an ear probe 13 wherein the cap portion includes a protrusion 33 extending away from the pedestal portion at an angle to the axis (see figs. 8-9).

*It is noted that the pins 33 of Saxbol et al. could be construed as being located at an angle of 360°.*

In regards to claim 32, Saxbol et al. discloses an ear probe 13 wherein the cap portion includes a plurality of pedestal portions (see drawing supra).

In regards to claim 33, Saxbol et al. discloses an ear probe 13 wherein the signal transducing device is a microphone (see page 1/lines 21-26; page 9/lines 13-17; page 11/lines 13-21).

In regards to claim 34, Saxbol et al. discloses an ear probe 13 wherein the signal transducing device is a speaker (see page 1/lines 21-26; page 9/lines 13-17; page 11/lines 13-21).

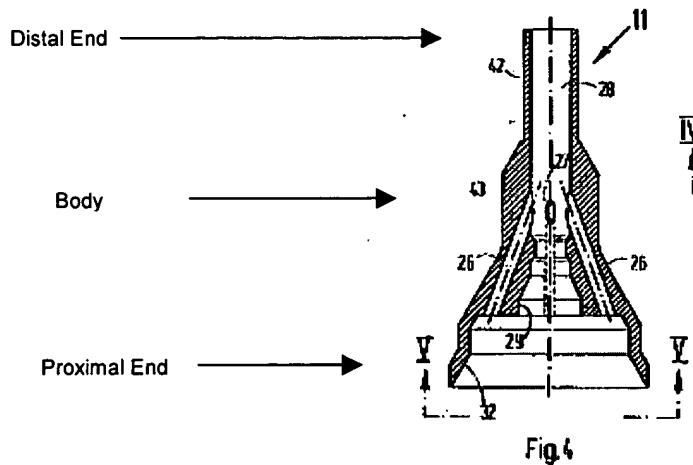
In regards to claim 38, Saxbol et al. discloses a tip 11 for an ear probe 13, the tip 11 comprising:

- a distal end;

- a proximal end; and

- a body extending between the distal end and the proximal end, the body including an exterior surface and an interior surface, the interior surface defining at least two channels 26 and an alignment slot 30 for providing proper positioning of the ear probe tip 11 to the ear probe 13 (see figs. 4-6; page 6/lines 29-36; page 7/lines 1-2 & 16-29; page 10/lines 16-21 & 29-31; page 11/lines 23-26).





In regards to claim 42, Saxbol et al. discloses a tip 11 wherein the tip 11 is disposable (see figs. 4-6; page 6/lines 7-13).

*It is noted that the tip of Saxbol et al. is disposable whether it is desirable to do so or not.*

In regards to claim 45, Saxbol et al. discloses a tip 11 for an ear probe 13, the tip 11 comprising:

a distal end;

a proximal end; and

a body extending between the distal end and the proximal end, the body including a means 30 for coupling with the ear probe 13 so that proper alignment between the tip 11 and the ear probe 13 is ensured (see figs. 4-6; page 6/lines 29-36; page 7/lines 1-2 & 16-29; page 10/lines 16-21 & 29-31; page 11/lines 23-26).

In regards to claim 46, Saxbol et al. discloses an ear probe system 1 comprising:

a probe 13 comprising:

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a base portion housing at least one signal transducing device; and

a cap portion extending from the base portion, the cap portion defining a first channel 37 and including a protrusion 33 extending away from the cap portion at an angle to a longitudinal axis of the channel 37; and

a tip 11 defining a second channel 27, the tip 11 being secured to the cap portion of the probe 13 such that the protrusion 33 maintains a tension fit between the probe 13 and the tip 11 to create a continuous channel extending from the first channel 37 to the second channel 27 (see figs. 4-6; page 6/lines 29-36; page 7/lines 1-2 & 16-29; page 10/lines 16-21 & 29-31; page 10/line 36 to page 11/line 3; page 11/lines 23-31; page 11/line 36 to page 12/line 5).

In regards to claim 47, Saxbol et al. discloses an ear probe system 1 wherein no portion of the first channel 37 is disposed within the second channel 27 when the tip 11 is secured to the probe 13 (see figs. 4-9; page 10/line 36 to page 11/line 3; page 11/lines 26-31; page 11/line 36 to page 12/line 5).

In regards to claim 48, Saxbol et al. discloses an ear probe system 1 wherein no portion of the second channel 27 is disposed within the first channel 37 when the tip 11 is secured to the probe 13 (see figs. 4-9; page 10/line 36 to page 11/line 3; page 11/lines 26-31; page 11/line 36 to page 12/line 5).

In regards to claim 49, Saxbol et al. discloses an ear probe system 1 wherein the protrusion 33 is angled (see figs. 8-9).

In regards to claim 53, Saxbol et al. discloses an ear probe system 1 wherein the second channel 27 is sized to prevent the first channel 37 from contacting debris in an

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ear of a subject when the tip 11 is secured to the probe and is positioned in the subject's ear (see figs. 4-9; page 10/line 36 to page 11/line 3; page 11/lines 26-31; page 11/line 36 to page 12/line 5).

In regards to claim 54, Saxbol et al. discloses an ear probe system 1 wherein the signal transducing device is a microphone (see page 1/lines 21-26; page 9/lines 13-17; page 11/lines 13-21).

In regards to claim 55, Saxbol et al. discloses an ear probe system 1 wherein the signal transducing device is a speaker (see page 1/lines 21-26; page 9/lines 13-17; page 11/lines 13-21).

In regards to claim 58, Saxbol et al. discloses an ear probe system 1 comprising:  
a probe 13 defining a first probe channel 35 and a second probe channel 35 and including a first alignment feature 33; and

a tip 11 defining a first tip channel 26 and a second tip channel 26 and including a second alignment feature 30, the first alignment feature 33 of the probe mating with the second alignment feature 30 of the tip 11 to ensure alignment of the first probe channel 35 with the first tip channel 26 when the tip 11 is secured to the probe 13 (see figs. 4-6; page 6/lines 29-36; page 7/lines 1-2 & 16-29; page 10/lines 16-21 & 29-31; page 10/line 36 to page 11/line 3; page 11/lines 23-31; page 11/line 36 to page 12/line 5).

In regards to claim 59, Saxbol et al. discloses an ear probe system 1 comprising:  
a probe 13 defining a first probe channel 35 and a second probe channel 35;

a tip 11 defining a first tip channel 26 and a second tip channel 26, and means 30 for automatic alignment of the first probe channel 35 to the first tip channel 26 when the tip 11 is positioned on the probe 13 (see figs. 4-6; page 6/lines 29-36; page 7/lines 1-2 & 16-29; page 10/lines 16-21 & 29-31; page 10/line 36 to page 11/line 3; page 11/lines 23-31; page 11/line 36 to page 12/line 5).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 15, 18-19, 27-28 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saxbol et al. ('372) in view of Rosenbaum et al. (US Patent No. 6,053,875).

In regards to claims 6, 18-19, and 27-28, Saxbol et al. disclose an ear probe, as described above, that teaches all the limitations of the claims except Saxbol et al. do not disclose fins. However, Rosenbaum et al. disclose an ear probe comprising the fins 54 (see figs. 1 & 3-5). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide an ear probe similar to that of Saxbol et al. with fins similar to that of Rosenbaum et al. in order to simplify attachment of the tip to and removal of the tip from the base (i.e. perhaps by facilitating the gripping and twisting force required to attach the tip of Saxbol et al. to the base) (see Rosenbaum et al., see Abstract at lines 8-12).

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In regards to claims 15 and 50, Saxbol et al. disclose a system, as described above, that teaches all the limitations of claim except Saxbol et al. do not teach a protrusion that is an encircling ring. However, Rosenbaum et al. disclose a protrusion ring 42 comprising protrusions 50 (see figs. 1 & 3-5). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar that of Saxbol et al. with a protrusion ring similar to that of Rosenbaum et al. since such a modification would amount to a design choice. It has previously been held that duplicating parts for a multiple effect is not patentable--See *In re Harza*, 274 F.2d 669, 671, 124 USPQ 378, 380 (CCPA 1960).

6. Claims 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saxbol et al. ('372) in view of Tiemann (US Patent No. 6,286,622).

Saxbol et al. disclose a system, as described above, that teaches all the limitations of the claim except Saxbol et al. do not disclose a visual guide feature. However, Tiemann discloses a system comprising a visual guide feature 40; wherein the visual guide comprises a projection 32 extending from the system and a corresponding cutout 33 disposed on the system (see figs. 5-11). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Saxbol et al. with a visual guide similar to that of Tiemann in order to suitably establish the rotational position or depth of the system (see Tiemann, column 6/lines 3-7 & 16-23).

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7. Claims 10-11, 24-25, 35-36, and 56-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saxbol et al. ('372) in view of Cheng (US Patent No. 6,190,329).

Saxbol et al. disclose a system, as described above, that teaches all the limitations of the claims except Saxbol et al. do not disclose a light source. However, Cheng discloses a system comprising a signal transducing device; wherein the signal transducing device is a light source; wherein the light source is a light emitting diode (see fig. 1; column 4/lines 5-13). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Saxbol et al. with a signal transducing device similar to that of Cheng in order to illuminate a patient's acoustic meatus (see Cheng, column 4/lines 5-13).

8. Claims 37 and 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saxbol et al. ('372).

In regards to claim 37, Saxbol et al. discloses an ear probe 13 comprising:

a base portion including means for transmitting signals to the ear; and

a cap portion extending from the base portion, the base portion including a first means 44 for securing a tip 11 to the cap portion and a second means 33 for preventing radial rotation of the secured tip 11 about the cap portion (see figs. 4-6; page 6/lines 29-36; page 7/lines 1-2 & 16-29; page 10/lines 16-21 & 29-31; page 10/line 36 to page 11/line 3; page 11/lines 23-31; page 11/line 36 to page 12/line 5).

Saxbol et al. discloses an ear probe, as described above, that teaches all the limitations of the claim except that Saxbol et al. does not teach means, provided in the cap portion,

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for securing the tip to the cap portion. Instead, Saxbol et al. discloses means 44, provided in the base portion 13, for securing the tip to the cap portion (see fig. 2). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide an ear probe similar to that of Saxbol et al. with means, provided in either in the base or cap portion, for securing a tip to the cap portion since such a modification would amount to a design choice. It has previously been held that shifting location of parts is not patentable--See *In re Japikse*, 181 F. 2d 1019, 1023, 86 USPQ 70, 73 (CCPA 1950).

In regards to claims 60-61, Saxbol et al. discloses a system of attaching a tip 11 to a probe 13, the system comprising the steps of:

(a) providing a probe 13 comprising:

a base portion housing at least one signal transducing device; and

a cap portion extending from the base portion, the cap portion defining a first probe channel 35 and a second probe channel 35 and including

(i) a protrusion 33 and

(ii) a tip alignment feature 33, the tip alignment feature 33 disposed between the first and second probe channels 35;

(b) positioning a tip 11 comprising an exterior surface and an interior surface, the interior surface defining a first tip channel 26, a second tip channel 26, and a probe alignment slot (29, 32), and stretching the tip 11 over the protrusion 33 during attachment of the tip 11 to the cap portion of the probe 13 (see figs. 2 & 4-6; page

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6/lines 29-36; page 7/lines 1-2 & 16-29; page 10/lines 16-21 & 29-35; page 10/line 36 to page 11/line 3; page 11/lines 23-31; page 11/line 36 to page 12/line 5).

Saxbol et al. discloses a system, as described above, that teaches all limitations of the claims except Saxbol et al. do not teach a probe alignment slot wherein the tip alignment feature has a greater length along a longitudinal direction of the ear probe system than the probe alignment slot. Although Saxbol et al. do not teach a probe alignment slot wherein the tip alignment feature has a greater length along a longitudinal direction of the ear probe system than the probe alignment slot, it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Saxbol et al. with a probe alignment slot wherein the tip alignment feature has a greater length along a longitudinal direction of the ear probe system than the probe alignment slot since such a modification would amount to a design choice. It has previously been held that changing aesthetic design is not patentable--See *In re Seid*, 161 F.2d 229, 231, 73 USPQ 431, 433 (CCPA 1947).

9. Claims 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saxbol et al. ('372) in view of Suszynski et al. (US Patent No. 5,018,872).

Saxbol et al. disclose a system, as described above, that teaches all the limitations of the claim except Saxbol et al. do not teach a texture on the tip. However, Suszynski et al. disclose a system comprising a texture 27; wherein the texture includes microbumps 27; wherein the microbumps are continuous about a circumference (see fig. 3). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Saxbol et al. with a



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texture similar to that of Suszynski et al. in order to secure the tip to the base (i.e. through threading) (see Suszynski et al., column 3/lines 47-50).

10. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saxbol et al. ('372) in view of Milam et al. (US Patent Application Publication 2002/0170771).

Saxbol et al. disclose a system, as described above, that teaches all the limitations of the claims except Saxbol et al. do not teach a feature that mechanically weakens the tip. However, Milam et al. discloses a system 10 comprising a feature 18 that mechanically weakens the system 10 (see fig. 1; see paragraph 0049). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Saxbol et al. with a feature that mechanically weakens the system similar to that of Milam et al. in order to easily sever the system upon application of a tensional force (i.e. perhaps to dispose of the probe) (see Saxbol et al., page 6/lines 7-13; see Milam et al., paragraph 0049).

11. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saxbol et al. ('372) in view of Milam et al. ('771) further in view of Harada (US Patent No. 3,934,100).

Saxbol et al. as modified by Milam et al. disclose a system, as described above, that teaches all the limitations of the claims except Saxbol et al. as modified by Milam et al. do not teach an aperture. However, Harada discloses a system comprising apertures 14 (see fig. 1; see Abstract/lines 9-14; column 1/lines 32-37 & 48-50; column 2/lines 8-10 & 19-23). It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a system similar to that of Saxbol et al. as

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modified by Milam et al. with an aperture similar to that of Harada in order to carry out the provisions of permitting the higher pitched sounds to be amplified through a probe and permitting the lower pitched and normal sounds to be directly received into the ear (see Milam et al., column 1/lines 32-37).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5,873,833 to Pompei discloses an ear thermometer radiation detector.

US Patent No. 6,299,584 to Iseberg discloses a hand-held hearing screener apparatus and removable probe tip therefor.

US Patent No. 3,852,540 to Diethelm discloses an ear hearing apparatus.

US Patent No. 3,882,848 to Klar et al. discloses a test probe for an impedance audiometer.

US Patent No. 4,516,428 to Konomi discloses an acceleration vibration detector.

US Patent No. 6,006,857 to Leight et al. discloses an earplug with insertion stem.

US Patent No. 5,631,965 to Chang et al. discloses a hearing protector.

US Patent No. 4,057,051 to Kerouac discloses a hand held ear test probe.

US Patent No. 6,082,485 to Smith discloses an adjustable earplug.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rene Towa whose telephone number is (571) 272-8758.

The examiner can normally be reached on M-F, 8:00-16:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RTT

*Max Hindenburg*  
MAX HINDENBURG  
PATENT EXAMINER  
EBC 8700